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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,465	07/11/2003	Tao Chen	PA470D1C1	5321
23696	7590	06/09/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			TORRES, JOSEPH D	
			ART UNIT	PAPER NUMBER
			2133	

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/618,465	CHEN ET AL.
	Examiner	Art Unit
	Joseph D. Torres	2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 October 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-16 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 July 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/17/2003.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: '12a', '12b', '4b' & '4n' in Figure 1; '220' in Figure 2; '422a', '422b', '424a' & '424b' in Figure 4; '514c', '514d', '512a' through '512h' in Figure 5; and '910a' through '910n' & '930a' through '930n' in Figure 9. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: '420', '422' & '424' on page 7; '910' on page 8; '930' on page 9; '610', '620', '622' & '624' on page 10; and '512' & '514' on page 13. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The Examiner would like to point out that the drawings are replete with errors. The applicants should review the drawings and specification to make sure all labels in the drawings are cited in the specification and all labels used in the specification are

present in the drawings. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the abstract should be revised to reflect newly claimed subject matter. Correction is required. See MPEP § 608.01(b).

Allowable Subject Matter

5. Claims 1-16 are allowed.

The following is an examiner's statement of reasons for allowance:

The present invention pertains to an apparatus and method for controlling power for retransmitting data.

Claim 1 recites various features:

“encoding a first set of data symbols to provide a first set of encoded symbols and a second set of encoded symbols; transmitting the first set of encoded symbols in a first frame; encoding a second set of data symbols to provide a third set of encoded symbols; determining whether the first frame failed to decode; determining a minimum retransmission power level for the second set of encoded symbols if the first frame failed to decode; and transmitting the second set of encoded symbols and the third set of encoded symbols in a second frame if the first frame failed to decode”.

The Prior Art of record (and in particular, Ozluturk; Faith M. et al., US 5841768 A, hereafter referred to as Ozluturk) teaches methods for controlling power for retransmitting data (Figure 4 in Ozluturk is a method for controlling power for retransmitting data) by encoding a first set of data symbols to provide a first set of encoded symbols and a second set of encoded symbols (see Figure 4 and 6A in Ozluturk: Note: a pilot code is a first set of encoded symbols and a short code is a second set of encoded symbols); transmitting the first set of encoded symbols in a first frame (Figure 4 in Ozluturk); encoding a second set of data symbols to provide a third set of encoded symbols (see Figure 6B in Ozluturk: Note: an Access code is a third set of encoded symbols); determining whether the first frame failed to decode; determining a minimum retransmission power level for the second set of encoded symbols (Figure 4 in Ozluturk is a method for determining whether the first frame failed to decode and

determining a minimum retransmission power level for the second set of encoded symbols).

The prior art however are not concerned with and do not teach, suggest, or otherwise render obvious the specific steps “for determining a minimum retransmission power level for the second set of encoded symbols if the first frame failed to decode; and transmitting the second set of encoded symbols and the third set of encoded symbols in a second frame if the first frame failed to decode” [Emphasis added] as taught by claim 1. Hence the prior art taken alone or in any combination fail to teach the claimed novel feature in claim 1.

Claim 9 recites substantially the same features as in claim 1.

Claims 2-8 and 10-16 depend form respective base claims 1 and 9.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

6. This application is in condition for allowance except for the following formal matters:

The drawings and abstract need to be corrected.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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